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Implementation of Energy Conservation Law in the PRC

Background

The Ministry of Transport of the People's Republic of China ("MOT") was established on 23 March 2008.

According to the State Council Institution Innovation Scheme that was approved by the first meeting of 11th National People's Congress, the newly established MOT combines the responsibility for city passenger transportation from the Ministry of Communication and the Ministry of Constructions. In addition, it is also responsible for managing the State Post Bureau of the People's Republic of China and the Civil Aviation Administration of China.

The main responsibilities of MOT including the preparation and execution of planning, policy and standards in relation to land transportation, marine transportation and civil aviation. It also takes responsibility for coordinating and facilitating connections of the integrated transportation system.

On 25 June 2008, MOT promulgated the "Regulation for implementation of Energy Conservation Law of the People's Republic of China" (the "Regulation"), which was approved on the 7th meeting of MOT and has been effective from 1 September 2008.

Main contents of the Regulation

- MOT is responsible for establishing and executing energy conservation policies and standards in relation to land transportation and marine transportation;
- MOT and other related departments will establish the energy consumption reporting, statistics and analysis systems on relating to land transportation and marine transportation;
- MOT and other related departments and entities should strictly follow national standards on fuel consumption limitation for transportation vehicles or vessels;
- The capital expenditure in relation to transportation should strictly follow the energy conservation evaluation and examination systems to make sure the capital expenditure complies with compulsory energy conservation standards; and
- Entities engaged in transportation industry should improve energy conservation management, establish and implement energy conservation plans and technical measures, so as to enhance efficiency by adjusting work plans in accordance with various factors, such as transportation volume and capacity.

Impacts on transportation and logistics enterprises in China

China maintained steady and rapid economic growth in 2007. Gross domestic product (the "GDP") grew by 11.4% year-on-year, underpinned by a 23.5% growth in import and export trade. Gross social logistics volume grew 25.5% year-on-year as the nation's logistics market continued to gain momentum. However, negative influences have also been taken place as a result of rapid economic growth and industry development, such as the sharp increase in oil prices and greenhouse gas emissions.

Although enforcement guidance and detailed standards are not issued, the implementation of the regulation would undoubtedly have the following impacts on logistics enterprises, whose key operating assets mainly compose of transportation vehicles and vessels powered by oil products:



Impacts on transportation and logistics enterprises in China (Continued)

- Capital expenditure might be increased as a result of the required replacement/ improvement of transportation vehicles, vessels and equipments currently owned by transportation and logistics enterprises which cannot meet energy conservation and emission requirements;
- According to the Regulation, transportation and logistics enterprises should purchase measurement apparatus, which will increase the enterprises' purchase and management costs in relation to the new assets acquired;
- Transportation and logistics enterprises should establish a statistic system in relation to energy consumption based on its energy consumption categories, manners, work processes, etc., and report to the relevant authorities. As a result, information management and reporting costs will be increased;
- Transportation and logistics enterprises should revisit their energy consumption categories, manners, related energy conservation standards and regulations to improve their work processes for energy conservation. As a result, work processes and internal controls might be changed;
- According to the Regulation, transportation and logistics enterprises should train their employees about energy conservation. As a result, employee training costs will be increased. Employees, who are well trained and qualified for energy conservation, can be assigned to posts related to energy management and the operation of high power equipment;
- Although the implementation of the Regulation will increase enterprises' operation costs in the short-term, energy conservation will decrease enterprises' long-term transportation costs; and
- From an accounting perspective, management needs to reassess if any impairment should be provided or review accounting estimates, such as estimated useful life, regarding those assets to be replaced, and make adjustment accordingly.

Potential punishments for non-compliance

- If entities breach the related provision in the regulation and the related compulsory energy conservation standards in research & development and the design and production process, the relevant authority is entitled to require a correction in a specified period and can circulate a notice of criticism or implement an administrative punishment for the responsible person.
- If an entity's report on energy statistics is missing, late, false or non-complaint in any way, provisions in the "Statistics Law of the People's Republic of China" are applicable.
- Where entities are using energy consumption equipment prohibited by the related regulations, transferring such equipment to others or exhibiting other non-compliant behavior, provisions in the "Energy Conservation Law of the People's Republic of China" and the "Standardisation Law of the People's Republic of China" are applicable.

How PwC can help

Transportation and logistics is a typical sector that is at the forefront of meeting with the more stringent regulatory demands on greenhouse gas emission reductions and directly affected by the rising costs of fossil fuels. Facing the challenges, those companies that take the leading role in deploying energy saving and alternative energy driven vehicles, vessels and aircraft and other mode of transportation will stand to gain an advantage over their competitors in cost savings, public relations and regulatory compliance.

Our Sustainable Business Solutions ("SBS") team provides energy and carbon related compliance service for domestic companies and help them develop their Corporate Social Responsibility ("CSR") report and CSR report assurance service. We also provide carbon footprint offsetting strategy and carbon disclosure advisory services for foreign invested companies in China. Our SBS China team also provides environmental due diligence services in transactional situation.

Other references

Recent PwC publications:

- China Customs & Trade News (June 2008)
- China Tax/Business News Flash
- Carbon Market Services in China
- Opportunities and Challenges for the Shipping Industry
- Ready for take-off? The inclusion of aircraft operators in the EU Emissions Trading Scheme
- The World in 2050 - Impact of global growth on carbon emissions

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